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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,359	04/14/2006	Henry William Lupton	Q92981	9858

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
DANEGA, RENEE A	
ART UNIT	PAPER NUMBER
3736	
MAIL DATE	DELIVERY MODE
05/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,359	LUPTON, HENRY WILLIAM	
	Examiner	Art Unit	
	Renee Danega	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *52-71* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *52-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. Claims 52-62, 64-66, 68-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worley et al. (US 20040019359).

Worley teaches an elongated guide wire for use in a surgical or other procedure for accessing a remote site in the body of a human or animal subject, the guide wire defining a longitudinally extending central axis, and extending between a distal end for accessing the remote site and a spaced apart proximal end, a curvature controllable portion being located in the guide wire towards the distal end thereof for offsetting the distal end at an angle relative to the central axis, the curvature controllable portion comprising an elongated curvature inducing first member, and an elongated curvature inducing second member coupled to each other adjacent their distal ends, and extending from their distal ends axially in a proximal direction, and being moveable axially relative to each other for inducing a curved bend in the curvature controllable portion, wherein a means is provided for constraining the first and second members to move parallel to each other for inducing the curved bend in the curvature controllable portion. The first and second members are disposed side by side and are slideably moveable axially relative to each other as well as the wire being in combination a catheter (Figure 1B, 6, 7) (abstract). Worley doesn't expressly teach t device to be a guidewire but says that the inner member may contain a guide wire [0070]. It would have been an obvious substitution in view of Worley to make the inner member a guide wire for navigating a body.

Worley teaches the means for constraining the first and second members to move parallel to each other comprises a guide tongue (12a) (14a) extending laterally from the second member and being slideably engageable with an axially extending corresponding guide groove in the first member. Retaining means is provided for retaining the guide tongue laterally captive in a plane in which curvature is induceable in the curvature controllable portion by the transverse cross-section of the guide tongue co-operating with the transverse cross-section of the guide groove (Figure 3B).

The guide wire comprises an elongated tubular member (14) extending from the proximal end to the distal end and the first member is formed by the tubular member of the guide wire. At least one of the first and second members is of resilient material for resiliently urging the distal end of the guide wire into axial alignment with the central axis of the guide wire (Figure 2A) [0014] [0016].

Worley teaches operating means is provided at the proximal end of the guide wire for moving one of the first and second members relative to the other for inducing the curved bend in the curvature controllable portion, and a connecting means is provided for connecting the operating means the second member (Figure 3D) [0061] [0062] [0063] [0070].

The connecting means extends through a bore defined by the tubular member forming the guide wire. The connecting means co-operates with the tubular member forming the guide wire, so that the column strength of the connecting means is sufficient for facilitating urging of the second member relative to the first member in both axial directions. The connecting means comprises an elongated connecting wire, and the operating means is formed by a portion of the connecting wire extending from the tubular member forming the guide wire, at the proximal end thereof for facilitating urging the guide wire in at least one axial direction for urging the second member in the corresponding axial direction relative to the first member [0070] (clms 34-35).

Worley teaches a sleeve (50) extends from the distal end of the guide wire axially in a direction towards the proximal end thereof, and the curvature controllable portion is located within the sleeve (Figure 6).

Worley teaches at least a portion of the guide wire adjacent the distal end thereof is of a radiopaque material [0020].

Regarding claim 69, this claim states the steps of the method providing the components of apparatus of claim1, thus the same rationale of rejection is applicable

The first and second members are disposed side by side and are slideably moveable axially relative to each other. The means for constraining the first and second members

to move parallel to each other is provided by a guide tongue extending laterally from the second member and being slideably engageable with an axially extending corresponding guide groove in the first member (Figure 3B) [0070].

2. Claim 63 rejected under 35 U.S.C. 103(a) as being unpatentable over Worley as applied to claim 52 above, and further in view of Gardeski.

Regarding claim 63, Worley doesn't teach a bulbous tip. However, Gardeski teaches a guide wire terminating in a bulbous tip (23) (Figure 1). It would have been obvious in view of Gardeski to provide a bulbous tip on Wilson's guide wire to prevent trauma to the body while accessing with the guide wire.

Response to Arguments

3. Applicant's arguments, see pgs 8-9, filed 11 February 2009, with respect to the rejection(s) of claim(s) 52 and depending claims under 102 (b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Worley.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renee Danega whose telephone number is (571)270-3639. The examiner can normally be reached on Monday through Thursday 8:30-5:00 eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RAD

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736